

**MINUTES OF THE
HEALTH SYSTEM REFORM TASK FORCE**

Thursday, September 11, 2012 – 9:00 a.m. – Room 450 State Capitol

Members Present:

Sen. Wayne L. Niederhauser, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. Allen M. Christensen
Sen. Gene Davis
Sen. Peter C. Knudson
Rep. Brian Doughty
Rep. Rebecca P. Edwards
Rep. Francis D. Gibson
Rep. Merlynn T. Newbold
Rep. Dean Sanpei

Members Absent:

Rep. Rebecca Chavez-Houck

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Ms. Catherine J. Dupont, Associate General Counsel
Ms. RuthAnne Frost, Associate General Counsel
Ms. Lori Rammell, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Niederhauser called the meeting to order at 9:18 a.m. He then called for a moment of silence in observance of the eleventh anniversary of the September 11, 2001, attacks on the World Trade Center.

MOTION: Sen. Davis moved to approve the minutes of the August 16, 2012 meeting. The motion passed unanimously with Rep. Gibson and Rep. Newbold absent for the vote.

2. Essential Health Benefits Package

Ms. Tanji Northrup, Assistant Commissioner, Utah Insurance Department, reported to the task force on the adoption of an emergency administrative rule designating PEHP's (Public Employee Health Program's) Utah Basic Plus state employee health insurance plan as the essential health benefits benchmark for purposes of the federal Patient Protection and Affordable Care Act (ACA) based on the August 16, 2012, recommendation of the task force. Mr. Andrews distributed copies of the emergency administrative rule. Ms. Northrup reported that the emergency rule was effective August 31, 2012, and that a hearing is scheduled for September 24, 2012.

Ms. Dupont reminded the task force that the end of the month is the state's deadline for submitting its choice of a benchmark plan to the U.S. Department of Health and Human Services (HHS). Ms. Northrup indicated that the Insurance Department has attempted to contact HHS but hasn't been able to get the information necessary to submit the plan information. She said that she understands HHS's intent is to make the plan information available for public comment but that this is not intended to be an approval process. Ms. Northrup answered questions from the task force.

3. Use of Enrollment Windows and Waiting Periods

Ms. Northrup spoke to the task force about the potential use of open enrollment windows by health insurers beginning in 2014. She indicated that there has been discussion of limiting enrollment in the individual exchange market to October through March, but that a final decision by HHS hasn't been made yet. She said that HHS has stated that in the small employer group exchange (SHOP) enrollment will be ongoing—there will be no open enrollment windows. She said the state has explained to HHS its 25% premium penalty imposed on off-anniversary changes to small employer group coverage.

Ms. Northrup noted that beginning in 2014, pre-existing condition waiting periods will no longer be allowed, as is the case already with coverage for children, but that employers will continue to be able to wait 90 days to enroll employees in coverage.

The task force discussed the potential for adverse selection and the possibility of imposing open enrollment windows for individual health insurance sold outside the exchange.

Ms. Tomi Osana, Executive Director, HIPUtah (Utah's Comprehensive Health Insurance Pool) and the task force discussed adverse selection in Federal HIPUtah. She explained eligibility, pre-existing condition waiting period, and premium differences between the two programs and that she thinks it is rare for people to try to "game" HIPUtah, while it is not rare for people to try to "game" Federal HIPUtah. She noted that HIPUtah's loss ratio is 1.5, while Federal HIPUtah's loss ratio is 8.0. She said that 90% of those who do not remain enrolled in Federal HIPUtah drop coverage within the first six months, after receiving services. She said that there will be a request to freeze enrollment in Federal HIPUtah's \$500 deductible plan, the plan in which people enroll, receive hundreds of thousand of dollars in services, and then drop.

Rep. Dunnigan said that someone will have to come up with \$78 million to cover the losses attributable to the Federal HIPUtah population as they move into the individual market beginning in 2014.

Ms. Dupont noted that at a previous meeting the task force recommended adoption of a state-based reinsurance program to protect the individual market for at least the first three years of the health insurance exchange.

4. Other Business

Ms. Dupont indicated that the Department of Human Resource Management and PEHP are monitoring the 90-day waiting period for employers to enroll employees in health insurance because this mandatory coverage provision could trigger the receipt of retirement benefits and create budgetary impacts for the state. She also briefly reviewed state and federal roles in administering the navigators program under a state-partnership exchange model and reviewed what the state knows about the optional nature of the Medicaid expansion under the ACA, including a legal challenge by another state to the ACA's Medicaid maintenance of effort requirement.

5. Adjourn

MOTION: Sen. Christensen moved to adjourn the meeting. The motion passed unanimously.

Chair Niederhauser adjourned the meeting at 10:16 a.m.